

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2139 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No.
2. To be referred to the Reporter or not? No.
3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge? No.

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HEIRS OF DAHIBEN HIRABEN

Versus

AHMEDABAD MUNICIPAL CORP.

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Appearance:

MR NR SHAHANI, for Petitioners.

MR SR BRAHMAKHATT, for Respondents.

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of Order: 14/11/97

ORAL JUDGMENT

Learned Counsel for the petitioner submits that the original workman has already expired and her heirs and legal representatives have been brought on record of this special civil application.

2. The only grievance which now survives in this special civil application as contended is regarding

payment of provident fund, unpaid wages etc. of the deceased petitioner - workman to the heirs and legal representatives of the deceased petitioner and the respondents are not making payment of those amounts and as such directions are required to be given to the respondents to make payment of provident, unpaid wages etc. of the deceased workman to the legal heirs of the deceased petitioner - workman.

3. In this special civil application the relief has been claimed for giving directions to the respondents to take the petitioner on duty as "safai kamdar" with continuity of service. Further consequential relief has been prayed for but no such relief has been claimed for which now the petitioner's counsel is making grievance thereof, in the special civil application. However, in case the provident fund dues and unpaid salary etc. of the deceased petitioner is illegally withheld then certainly it is a serious matter. But at the same time it is a question of fact whether the amounts are due or not and in absence of such prayer no such relief can be granted. However, interest of justice will be met if this special civil application is disposed of in term that whatever claim of the petitioner regarding provident fund, unpaid wages etc. of the deceased petitioner, they may lodge the claim with the respondents within 15 days from today and in case such claim is lodged by the heirs of the deceased petitioner then the respondents shall consider the same and if they accept those claims then the amount found payable to the heirs and legal representatives of the deceased petitioner shall be paid to them within a period of 3 months from the date of receipt of claim. In case, the claim lodged by the heirs and legal representatives of the deceased petitioner is not acceptable then a reasoned order may be passed and copy of the same may be sent to the heirs and legal representatives of the deceased petitioner. In case of difficulty, liberty is granted for revival of this special civil application by simple filing a note.

4. Rule is made absolute to the above extent, with no order as to costs.